



## ***NEW YORK COMMUNICATIONS CO., INC.***

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August 30, 2002

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: WT Docket No. 02-55  
EX PARTE COMMUNICATION

Dear Ms. Dortch:

New York Communications Company ("NYCOMCO") has submitted Comments and Reply Comments in the above-referenced proceeding as part of a group of parties with interests in the band.

New York Communications Company is located approximately 60 miles north of New York City in the Hudson Valley of New York state. Approximately 15 years ago, our corporation constructed an 800 MHz SMR system throughout the Hudson Valley. The lack of available spectrum made our 800 Trunking System very attractive especially for public safety. We now have close to 4,000 units on this system with close to 75% of them being true public safety users. As part of the Commission's re-banding of the "Upper 200" frequencies in the 800 MHz range, NYCOMCO has already experienced one major disruption to its customer base by re-tuning our Upper 200 channels to lower channels due to the auction. When we addressed our re-tuning proposal to Nextel we explained that this process was going to be a nightmare. We significantly underestimated its devastating potential to us and to our customer base.

The Private Wireless Coalition proposal, as expressed in the Reply Comments, would require NYCOMCO to re-tune our entire system again, to eliminate NYCOMCO's use of the General Category frequencies. We understand that we were compensated for the hard costs during this initial re-tuning, and we certainly expect to have such costs covered again during a second re-tuning. NYCOMCO's initial re-tuning was **significantly costlier** in terms of customer relation disruption and most disturbing, the loss of customers during this re-tuning process.

In addition, NYCOMCO has received and is still receiving interference from Nextel's system. They are placing our Public Safety Officers in the Hudson Valley in jeopardy every day. Even though we are working directly with Nextel, our continued problems ultimately become resolved but we still suffer this interference on a daily basis and the impact to NYCOMCO's customers has just been enormous.

As a relocated incumbent, and one who still experiences interference from Nextel, our company is well positioned to provide the Commission with information regarding our experience, exactly what is and isn't acceptable to insure that interference will be totally resolved. However with NYCOMCO's review of the comments filed with this proceeding, it is very troubling to us. We noticed a variety of comments from entities that have no operations in the 800 MHz spectrum.

It appears that their primary objective is to injure Nextel competitively. While we express no position with regard to this goal, it is our position that entities which have never been licensed in this band or entities which were previously licensed in this band, and have received millions of dollars courtesy of Nextel to move out should not be the deciding factor in what happens to us, the remaining incumbents.

It is truly **not** our desire to under go a **forced** relocation. The truth of the matter is that a further re-tuning will certainly degrade the excellent relationship we have with our customers and will result in further and significant disruption. However, we do recognize and accept that the problem must be resolved, particularly for all Public Safety users, and especially those Public Safety users on our 800 SMR system. Although we would really appreciate the opportunity to do nothing and require Nextel to correct every problem that exists all on their own, including shutting down their system if necessary, NYCOMCO recognizes that this alternative is not practical nor sensible, nor does it leave anybody in a winning position. This is why NYCOMCO truly rejects the comments of such entities that merely refuse to cooperate in any resolution. All that does is punishment Nextel. We feel that all the organizations involved: Public Safety, the 800 Public Safety SMR's, Nextel, the Private Wireless Coalition should be allowed to remain whole and not be separated or segmented by these proposals.

Therefore, NYCOMCO supports the Private Wireless Coalition proposal detailed in the Reply Comments. The proposal accomplishes all of the Commission's goals in this proceeding: (1) resolution of interference to the maximum extent practicable; (2) the most minimum disruption possible, while still allowing everyone to remain whole and in business; and (3) some additional spectrum for Public Safety users such as our customers, because we have been frozen in place and not been able to improve our system for numerous years. Nextel certainly benefits from the plan, but it also suffers tremendously in the form of massive payments to incumbent licensees for re-tuning expenses, as well as the costs it must incur for its own relocation. Our one and only goal is to insure that our Public Safety customers are well protected, receive minimal disruption, minimal impact and minimize their cost involving this second forced relocation. We ask that the Commission please ignore the anti-competitive comments of non-incumbents and quickly and forcefully push forward the Coalition proposal which will immediately provide interference free operation for Public Safety, Business Industrial and 800 SMR licensees.

I thank you for taking the time to review this extremely important matter. Please keep the safety of our Public Safety officials and the residents of our Hudson Valley in your thoughts as you make this extremely important decision.

Very truly yours,

Richard M. Lacouette  
Executive Vice President

RML/sap